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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,294	08/09/2001	Markus Gebhardt	ALF-66	2677

22827 7590 06/05/2003
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

EXAMINER

WALTON, GEORGE L

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 06/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/925,294	Applicant(s) Gebhardt et al
	Examiner George L. Walton	Art Unit 3753
		
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
<p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>THREE</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <p>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</p> <p>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</p> <p>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</p> <p>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</p> <p>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
<p>Status</p> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jun 7, 2001</u></p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
<p>Disposition of Claims</p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-11</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-11</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
<p>Application Papers</p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<p>Priority under 35 U.S.C. §§ 119 and 120</p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
<p>Attachment(s)</p> <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p>		

Art Unit: 3753

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3/1, and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McGillis et al (2,569,110 or 3,078,867) or McGillis. The above claims are readable on the patent to either McGillis et al or McGillis with the single exception of utilizing the claimed invention for the fuel tank of a motor vehicle. Such intended use is afforded no patentable weight, since the patents to McGillis et al or McGillis teaches the utilization of its valve in a fuel tank environment for

Art Unit: 3753

gasoline trucks and filling tanks. Whether the claimed valve is utilized in a fuel tank for a motor vehicle or utilized in the environment for gasoline trucks and filling tanks would be obvious to one of ordinary skill in the art, at the time the invention was made. In the patent to McGillis et al, Patent No. 2,569,110, the flap valve is readable on elements 36, 48 and the lever rod and float are readable on elements 60, 64, 66, 68, 70, 72 and 74. Elements 23 and 26 are readable on the carrier. The outlet sealing edge is readable on element 40. The flow diverter is readable on element 76. The bearings are readable on elements 48 and 50. The central opening is readable on the outlet at element 40.

In the patent to McGillis et al, Patent No. 3,078,867, the flap valve is readable on elements 16 and 17 and the lever rod and float are readable on elements 23-27. Elements 4 and 31 are readable on the carrier. The outlet sealing edge is readable on elements 11 and 14. The flow diverter is readable on element 29. The bearings are readable on elements 18 and 19. The central opening is defined by elements 11 and 14.

In the patent to McGillis et al, Patent No. 3,963,041, the flap valve is readable on elements 68 and 72 and the lever rod and float are readable on elements 92-94, 96, 98 and 88. Element 46 is readable on the carrier. The outlet sealing edge is readable on elements 48 and 62. The flow diverter is readable on element 78. The bearings are readable on elements 66 and 74. The central opening is defined by elements 11 and 14.

Claims 2 and 3/2 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McGillis et al or McGillis in view of Gallier. The above claims are readable on either patent to McGillis et al or McGillis with the single exception of having a escape or bleed port or bore above

Art Unit: 3753

filling valve. The patent to Gallier teaches the above exception. In view of the teaching of Gallier, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to provide the above exception to either patent to McGillis et al or McGillis as taught by element 12, if desired. Such teaching provides no unobvious or unexpected result.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McGillis et al or McGillis in view of Scaramucci. The above claims are readable on either patent to McGillis et al or McGillis with the single exception of having a specific type of flap or check valve with a pair of pivot pins and cross pieces to received within bearing cavities on a wall portion of a valve body. The patent to Scaramucci teaches the above exception. In view of the teaching of Scaramucci, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to provide the above exception to either patent to McGillis et al or McGillis to replace their respective flap pins and bearing member as taught by elements 24, 48 and 56, if desired. Such teaching provides no unobvious or unexpected result.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George L. Walton whose telephone number is (703) 308-2596. Upon receipt of this action, the applicant and/or attorney is invited to contact the examiner to discuss the above

Art Unit: 3753

action. My normal business hours are between 8:30 AM to 5:00 PM. Should any attempt after one business day to reach the examiner by telephone is unsuccessful, you may contact the supervisor, Mr. Mikado Buiz on (703) 308-0871. My fax number is (703) 308-7765.

Any inquiry of a general nature or relating to the status of this application and any pre-examination proceedings on this application should be directed to the receptionist whose telephone number is (703) 308-0861.

GLW
June 02, 2003



GEORGE L. WALTON
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER - 3700
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